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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)

Advanced Television Systems)
and Their Impact Upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

COMMENTS OF CBS INC.

Mark W. Johnson
1634 I Street, N.W.
Suite 1000
Washington, DC 20006

(202) 457-4513

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CBS Inc. ("CBS"), by its attorney, respectfully submits these comments in response to the Fourth Further Notice of Proposed Rulemaking and Third Notice of Inquiry ("Notice") in the above proceeding, in which the Commission "invite[s] comment on a wide range of issues with respect to the conversion by television broadcasters to digital television." (Notice at ¶11)

I. Introduction.

CBS has been intimately involved with the advanced television development and implementation process since the inception of this proceeding in 1987. We have contributed high level management time and expertise to the Advisory Committee on Advanced Television Service ("ACATS") in its nearly complete work toward

recommending a new terrestrial broadcasting transmission standard to the Commission.¹

We have helped to fund and manage the Advanced Television Test Center, which has been responsible for the technical evaluation of proposed advanced television transmission systems. We have participated in broadcast industry efforts to design a complex but workable computer model for the allotment/assignment of temporary second channels to existing broadcasters for use during the transition to terrestrial ATV broadcasting.² And we are actively working with our affiliates to plan the technical and operational transition of the network distribution system.

CBS has joined with an array of other broadcasting organizations in comprehensive joint comments to be filed today in this proceeding ("Joint Broadcaster Comments"). The Joint Broadcaster Comments reflect a broad industry consensus on most of the issues on which the Commission seeks input in response to the Notice, and CBS strongly supports that hard-won consensus. CBS is filing these brief supplementary individual comments in order to emphasize and explain our view on what we believe is,

¹ ACATS expects to recommend a terrestrial broadcast ATV standard to the Commission in November.

² Issues related to the allotment and assignment of ATV channels to existing broadcasters will be taken up in a later notice. (Notice at ¶19) Consistent with the Commission's usage, the acronym "ATV" refers herein "to any television technology that provides improved audio and video quality or enhances the current NTSC television system." "HDTV" refers to an ATV system that offers "approximately twice the vertical and horizontal resolution of NTSC receivers and [provides] picture quality approaching that of 35mm film and audio quality equal to that of compact discs." Second Report and Order/Further Notice of Proposed Rulemaking, MM Docket No. 87-268, 7 FCC Rcd 3340 (1992) ("Second Report and Order").

and should continue to be, the fundamental goal of this eight-year-old proceeding. That fundamental goal is to implement the transition of over-the-air broadcasting -- the only universally available video distribution system that is free to the public -- from a 60-year-old transmission technology to new technology that would enable HDTV-quality transmissions. Only in this way will free broadcasting remain technically competitive with nonbroadcast, subscription-based services which do not suffer the spectrum bandwidth constraints that uniquely afflict broadcasting.³ This transition can only be accomplished through the temporary use by every broadcast station of a second 6 MHz channel, so that the viewing public's current NTSC service will continue to be available throughout the transition and the existing NTSC receiver population will not be made obsolete prematurely.

II. The Development of a Digital Transmission System Does Not Change The Fundamental Goal Of This Proceeding.

Quite appropriately, the Notice highlights the dramatic change that has occurred in the advanced television broadcast standards development process since 1992, when the Commission considered some of the same policy issues which it is now revisiting. That change, of course, was the cooperative development by the Grand Alliance⁴ of a single

³ See, e.g., Comments of CBS Inc., MM Docket No. 87-268, November 18, 1987 at pp. 48ff.

⁴ The Grand Alliance consists of AT&T, General Instrument Corporation, Massachusetts Institute of Technology, Philips Electronics North America Corporation, Thomson Consumer Electronics, The David Sarnoff Research Center and Zenith Electronics Corporation.

digital terrestrial broadcasting transmission system to replace the several analog systems which were competing at the time for industry and Commission approval.⁵

In the wake of that development, much attention has been devoted to the “flexibility” of a compressed digital signal to accommodate, for example, a combination of data and multiple video services of less than HDTV quality, and the possibilities this flexibility raises for changing the fundamental nature of the free, over-the-air broadcasting system. Indeed, the Notice emphasizes at the outset the apparent “practical feasibility of dynamic transmission of multiple streams of information” in a digital broadcast signal and how this has “changed the equation” to the extent that the Commission must “explore how to ensure that the introduction of digital broadcast television furthers the public interest in all respects.” (Notice at ¶5)

CBS certainly agrees that the arrival of digital technology requires the Commission to rethink some of its 1992 decisions, and the Joint Broadcaster Comments address many of those issues in great detail, including the important role that the inherent flexibility of digital transmission can play in enhancing the free, over-the-air broadcast service. However, the notion that digital technology presents a desirable opportunity to reinvent our broadcasting system -- and not incidentally to provide an “opportunity” for new

⁵ We expect that the Grand Alliance system -- if implemented in conjunction with an appropriately designed allotment/assignment table -- will allow every station to deliver an over-the-air digital signal of competitive quality essentially throughout their current service areas, even during the transition period when the current NTSC service is being provided simultaneously. Most remarkably, this can and will be done in 6 MHz channels which are already allocated to broadcasting, but which have hitherto been unusable for that purpose because of the interference characteristics of the present analog transmission system.

content regulation and up-front auctions of ATV spectrum -- is misguided. Rather than facilitate an evolution of the free and universal over-the-air broadcasting service from obsolescent technology to a technically superior replacement service, new government-imposed financial and regulatory burdens on over-the-air broadcasting can only sap its vitality at a time when it is already under intensifying competitive pressures and is committed to the expensive and risky process of a wholesale technological conversion.

While the Commission will hear in this proceeding from parties with economic interests in the video marketplace, and from groups with a particular viewpoint on various aspects of broadcast regulation, it will not hear from the unorganized viewers at large. In CBS's view, they will be heard from loudly and clearly only in terms of their marketplace behavior as the transition proceeds. In the meantime, the Commission role in ATV implementation should continue to be guided by the principle that the public's universal access to the kind of free news, sports and entertainment programming that is generated by our unique local/national system of over-the-air broadcasting should be preserved during the transition to ATV and be perpetuated into the all-digital world, as long as the public wants it.

Thus, the Commission should adopt regulations for the NTSC-to-ATV transition that are designed to ensure that the ATV channel is used in a manner that lets the public "vote" on an informed basis on whether it ultimately wants to embrace an HDTV-based broadcasting system that essentially replaces the current NTSC service, albeit with the capacity for enhancements that is inherent in digital technology. As the transition to a

digital free broadcasting service proceeds, there will be ample time to assess its direction and its progress in the marketplace and to make further regulatory judgments based on real-world developments.

As noted above, CBS strongly supports the consensus positions in the Joint Broadcaster Comments on the range of regulatory issues raised in the Notice. In these individual comments, we want to highlight briefly our views concerning two of the issues that are especially important to facilitating the public “vote” on the kind of ATV service it ultimately wants, while assuring its continuous universal access to NTSC service throughout the transition. They are a prescribed minimum of HDTV programming and a simulcasting regime.

III. The Commission Should Adopt A Reasonable Minimum Required Amount Of HDTV Programming On The ATV Channel.

In the 1987 context, ACATS and the Commission were confronted “simply” with devising a new analog transmission standard of sufficiently improved quality to allow broadcasters to be competitive with their subscription-based competitors. At that time, the choice before the Commission was whether it should adopt a true HDTV analog transmission standard -- which would require the assignment of a second channel to each broadcaster -- or a lesser-quality analog standard that might be designed as an NTSC

“enhancement” and be transmitted either within the existing 6 MHz channel or with the use of some additional spectrum.⁶

In considering adoption of the innately flexible digital transmission system based on the Grand Alliance system, the Commission must ensure that the focus of the transition -- at least at the outset until public preferences and marketplace factors can be reliably assessed -- remains on the core public interest in nurturing a technically competitive free broadcasting service as an ultimate replacement for the existing NTSC service. One of the ways the Commission can effectively pursue that strategy is to require that a reasonable minimum amount of HDTV-quality programming be provided by each broadcaster over the ATV transition channel. The purpose of such a requirement would be to assure a fair marketplace test of the public acceptance of HDTV as the cornerstone of the next generation of broadcast service. It would be intended to enable, not second-guess, ultimate consumer preferences, and the Commission should announce its intention to revisit its initial decision as the transition progresses.

The factors which should guide the Commission in quantifying such a requirement initially, and adjusting it over time, are discussed in the Joint Broadcaster Comments. Primary among them, of course, is the availability of programming produced in HDTV quality. While existing program material on 35mm film is a currently available source, the pace of development of original program material in an HDTV format depends on a

⁶ See generally Tentative Decision and Further Notice of Inquiry, MM Docket No. 87-268, 3 FCC Rcd 6520 (1988).

variety of marketplace factors, including, of course, the incentive for such development that a reasonable and evolving minimum broadcast requirement would itself provide.⁷

IV. A Simulcasting Requirement Would Help Expedite The Transition And Assure That The NTSC Program Service Would Continue To Be Universally Available Throughout The Transition.

The Commission proposes “to require the simulcast of all material being broadcast on the NTSC station ...on a program service of the ATV channel.”⁸ CBS supports this proposal because it will expedite the transition and because a simulcasting regime is consistent -- just as it was in 1992 -- with the fundamental goal of this proceeding to move the free, over-the-air broadcasting system from analog to technically superior digital technology in as seamless a manner as possible.

CBS believes that a simulcasting requirement along the lines of that proposed in

⁷ It is an especially critical prerequisite for the development of HDTV program material that all new ATV receivers and set-top boxes be able to decode all members of the new digital transmission hierarchy, including HDTV, even if the receiver is designed to display the transmitted material only in a lower quality format. Lacking such “all-mode” decoding capability, a broadcast in HDTV (or in any format in the hierarchy not accommodated by the decoder) would cause the receiver to go “black.” The receiver interoperability issue is of special concern for terrestrial broadcasters and their over-the-air audiences because these broadcast audiences will be dependent for the indefinite future on the built-in features of integrated receivers.

⁸ Notice at ¶41. The Commission has defined “simulcasting” in a way that contemplated that an HDTV simulcast of an NTSC program need not include identical commercials or promotions and may have different production elements, such as different camera angles. Memorandum Opinion and Order/Third Report and Order/Third Further Notice of Proposed Rulemaking, MM Docket No. 87-268, 7 FCC Rcd 6924, 6978 (1992).

the Notice should be adopted at the outset, in order to ensure that popular NTSC programming will be available in enhanced technical quality on the ATV channel. Although market incentives will likely dictate that first generation ATV receivers will be designed to decode and display analog NTSC broadcast transmissions as well as digitally delivered signals, CBS believes that the higher quality digital simulcasts will spur the sale of digital receivers and help to expedite the transition.

This expedition is in the interest of broadcasters and the government,⁹ and it alone is sufficient justification for a simulcasting regime both early and late in the transition. A simulcasting requirement may have the additional effect, especially later in the transition, of ensuring that the ATV and NTSC broadcast services do not evolve into separately programmed entities. If that were to happen, the transition could be prolonged or stymied, making it more problematic for the government to cut off NTSC service which is not duplicated on the ATV channel and to reclaim the analog channel.¹⁰

⁹ An expedited transition will free broadcasters of the burden of operating two separate transmission systems, and it will allow for earlier reallocation of the channels to be surrendered by broadcasters.

¹⁰ In 1992, the Commission proposed to phase in simulcasting of all ATV programming on the NTSC channel, primarily to avoid premature migration of the most desirable free television programming to the ATV channel, which would disenfranchise households that had not yet acquired digital reception equipment. Second Report and Order at 3355. This formulation of a simulcasting requirement is problematical in the digital ATV environment, where more than one simultaneous video transmission is technically feasible. We believe that the new formulation will sufficiently protect against such disenfranchisement.

In 1992, the Commission adopted a simulcasting regime in part “to underscore that ATV is not a separate television service and will not result in the permanent grant of two 6 MHz channels to existing broadcasters.”¹¹ The Commission should take this opportunity to underscore that point once again and adopt a simulcasting requirement that will facilitate the most expeditious and orderly transition to digital broadcasting.

V. Conclusion.

In this proceeding, the Commission’s “overarching goal is to ensure that the introduction of digital television fully serves the public interest.” (Notice at ¶1) CBS believes that the central public interest in this proceeding is in the successful evolution of the current universally available terrestrial broadcasting system, which the public values so highly, to a technically superior transmission technology. CBS believes that the Commission should be guided in adopting its initial regulatory structure for this transition

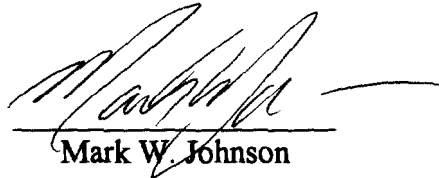
¹¹ Id.

by the consensus views expressed in the Joint Broadcaster Comments and by the fundamental principles highlighted herein.

Respectfully submitted,

CBS Inc.

By:



Mark W. Johnson

1634 I Street, N.W.
Suite 1000
Washington, DC 20006

Its Attorney

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